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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,255	07/19/2000	Catherine Lin-Hendel		1100

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Jean Marc Zimmerman
226 St Paul Street
Westfield, NJ 07090

EXAMINER

FADOK, MARK A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/619,255

Applicant(s)

LIN-HENDEL, CATHERINE

Examiner

Mark Fadok

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment and RCE

The examiner is in receipt of response to office action mailed 12/3/2003, which was received 6/7/2004. Acknowledgement is made to the amendment to claims 1-7,9,10,12,14-17 and 20 along with the cancellation of claim 11, leaving claims 1-10 and 12-21 as pending in the instant application. The applicant's arguments and amendments have been carefully considered, but were not found to be persuasive; therefore a rejection necessitated by amendment follows:

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Objections

Claims 9,16 and 17 are objected to because of the following informalities: They include a repeated "the". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,4,5,9,10,16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bieganski et al (6,412,012) in view of Official Notice.

In regards to claim 1, Bieganski discloses an electronic system for purchasing merchandise online using a computer having a display device, comprising:

means for selecting and purchasing merchandise by a user online (col 18, lines 50-65); and

Bieganski teaches online merchandise recommendations and computer-assisted selections tailored to said user with an independent connection to the recommendation engine (FIG 10), but does not specifically mention that the recommendation engine (wizard guide) is optionally deployed. It was old and well known in the art at the time of the invention to have the capability to turn different programs on and off. It would have been obvious to a person having ordinary skill in the art to include in Bieganski the option to disengage the recommendation engine, because this would offer the user more functionality and allow the user to

search/browse on their own if they know what they are looking for already. Furthermore, it is understood that the system of Bieganski is optionally deployed, because the user could use an optional system that is readily available on their computer such as yahoo.com, which does not have the subject recommendation engine.

said interactive wizard guide comprising:

means for prompting a user to specify preferences regarding at least one type of merchandise of interest to said user (col 8, lines 15-37, expressed user preference),

Bieganski teaches acquiring preferences expressed by a user and storing preference data in a database, but does not specifically mention that the expressed user preferences are acquired by prompting the user to answer a plurality of questions. Collecting preference data by presenting the user with a plurality of relevant questions was notoriously well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art to prompt the user to answer questions, because this would present a convenient way of collecting relevant preference data "expressed" by the user and allow control over what questions are asked thus improving the relevance of the expressed interests and making it easy to format the collected data for storage and usage (col 2, lines 35-40, filling out a survey).

means for searching in and retrieving data from at least one database using predetermined intelligence rules together with said user profile to determine said recommendations and said selections of said merchandise and accessories to said merchandise (FIG 10),

means, in response to said retrieving means, for displaying on said display device, said recommendations and said selections of said merchandise and said accessories (FIG 10, item 1002), and

Having the ability to override an application is old and well known in the art. It would have been obvious to a person of ordinary skill in the art to include in Bieganski a means for overriding said interactive wizard guide, because a user may want to buy a specific product that is not shown by the wizard. If this application were not manageable then the user would be forced to shop elsewhere to find the product that they wish to purchase and the system would loose a sale.

In regards to claim 3, Bieganski teaches user specifying the user preferences (col 2, lines 35-45), but does not specifically mention checking at least one box in front of a possible choice or clicking on a text string representing that choice. It was old and well known in the art at the time of the invention to indicate a choice by checking at least one box in front of a possible choice or clicking on a text string representing that choice. It would have been obvious to a person having ordinary skill in the art to include in Bieganski indicating a choice by checking at least one box in front of a possible choice or clicking on a text string representing that choice, because this is considered a notoriously well known method to efficiently connote ones choice in an electronic formatted questionnaire.

In regards to claim 4, Bieganski teaches providing recommendations for merchandise to a user, but does not specifically mention that the information provided is from a plurality of vendors. It was old and well known in the art at the time of the invention to provide a plurality of vendors in response to a recommended request. It would have been obvious to a person having ordinary skill in the art to include in Bieganski presenting a plurality of vendor's merchandise, because this would provide increased usage of the system and provide for increased revenues and further provide the user with more options thus improving the utility of the system.

In regards to claim 5, Bieganski teaches a recommended list (col 5, lines 45-67), but does not specifically mention that vendors are being presented in the list or that further information is retrieved about the vendor's products. It was old and well known in the art at the time of the invention to provide lists of vendors with means for attaining additional information on there products (any search engine). It would have been obvious to a person having ordinary skill in the art to include in Bieganski providing a list of vendors along with the capability to link to their products, because this would provide the system of Bieganski another source of revenue by also providing vendor recommendations.

In regards to claim 9, Bieganski teaches manipulating data and viewing it on a display (FIG 10), but does not specifically mention manipulating the data locally. It was old and well known in the art at the time of the invention to utilize a local computer to

forgo having to continually interact with a remote server, particularly with large groups of data. It would have been obvious to a person of ordinary skill in the art to include in Bieganski using a local computer to perform most of the interaction, because this is a well known means for making the manipulation of large amounts of data more efficient.

In regards to claim 10, Bieganski teaches collecting preferences, but does not specify that the method used is by menus and data entry tables. It was old and well known in the art at the time of the invention to use menus and data entry tables to collect data. It would have been obvious to a person of ordinary skill in the art to use this well known method to collect information, because this is an effective way to collect all the preference data in the system of Bieganski.

In regards to claim 16, Bieganski teaches wherein at any stage of interaction with the system, an array of recommendations can be presented on the display device,

the array able to be narrowed or enhanced interactively as the interactive wizard guide gains input from the user (FIG 14A).

In regards to claim 20, Bieganski does not specifically teach wherein the user can override a predetermined intelligence rule used by the system to make recommendations to the user. Having the ability to override a predetermined rule by

turning off the rule is old and well known in the art. It would have been obvious to a person of ordinary skill in the art to include in Bieganski a means for turning off all or a portion of the predetermined rules based on preferences, because a user may want to buy a specific product that is not shown according to a predetermined rule. If this rule were not manageable then the user would be forced to shop elsewhere to find the product and the system would loose a sale.

Claims 2,6-8,12-15,17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bieganski et al (6,412,012) in view of Official Notice and further in view of Weaver (6,404,426).

In regards to claim 2, Bieganski teaches a questionnaire database that prompts the user to answer a plurality of questions to specify the user preferences with regard to the at least one type of merchandise (see response to claim 1);

said searching and retrieving means comprises:

a search engine using comparison functions, said artificial intelligence rules and user input rules (col 10, lines 17-37);

said wizard guide further comprising:

Bieganski teaches storage and retrieval of product information and other store and sale information (FIG 10), but does not specifically mention that the database includes textual and graphical data regarding the at least one type of merchandise. It

was old and well known at the time of the invention to use both graphical and textual data to represent items for sale over the Internet. It would have been obvious to a person having ordinary skill in the art to include in Bieganski textual and graphical data, because this is a notoriously well known manner of showing products for sale over the internet and gives the customer an idea of what the product looks like thus increasing the comfort of the user and enhancing the sale.

Bieganski teaches using artificial intelligence rules to match the merchandise with the accessories and producing a list of results (col 5, lines 27-67), but does not specifically mention that the items presented have links to other databases for other types of merchandise. It was old and well known in the art at the time of the invention to include links to other products in a recommendation list. It would have been obvious to a person having ordinary skill in the art to include in Bieganski the links of the instant invention, because this provides a convenient means for gathering additional information on products that are listed without having to present all the information on one page, which could be overwhelming to the user.

Bieganski teaches purchasing merchandise and recommending compatible products, but does not specifically mention using a virtual avatar to display the articles that a user wishes to purchase. Weaver teaches a layout and schematics program for preparing and displaying a floor plan depicting merchandise selected by the user (FIG 7, analogous to mannequin trying on clothes),

wherein the dimensions and other architectural features of the floor plan are provided by the user (see summary and user controls);

a models database having images of models (summary);
an animation and morphing program for providing image and motion creation and morphing to models selected from the model database by the user (FIG 7),
wherein the selected models wear merchandise selected by the user (col 2, lines 53-58),
the user able to alter the models and the models' features (summary);
a temporary working database in which the user works while using the system (col 4, lines 7-30). It would have been obvious to a person having ordinary skill in the art to include in Bieganski the virtual modeling capabilities as taught by Weaver, because this type of preview allows the user to become more comfortable with the purchased articles when the transaction is done online (col 1, lines 15-20).
and

The combination of Bieganski and Weaver teaches manipulating data in a database and also collecting preference data in a database for future retrieval, but does not specifically mention that the data is stored in a temporary working database or a personal folder. It was old and well known in the art at the time of the invention to use temporary databases to manipulate data and to store data that was manipulated in a personal folder. It would have been obvious to a person having ordinary skill in the art to include in the combination of Bieganski and Weaver the separate databases because this would allow many users to use the database and not overwhelm the storage capacity by storing many groups of data that may never again be accessed. This would also increase the efficiency of the system.

In regards to claim 6, Bieganski/Weaver teaches means for preparing and displaying, based on specifications provided by the user,

a recommended floor plan showing each item of merchandise selected by the user (Weaver, FIG 7, analogous to adjusted mannequin being dressed with selected clothing).

In regards to claim 7, Bieganski teaches means for prompting the user to examine and specify specifications and configurations for each merchandise item (col 2, lines 60-67).

In regards to claim 8, the combination of Bieganski and Weaver teaches presenting and selecting clothing, but does not specifically mention that an input device is used to click on an individual item of merchandise shown on the display device to determine which goods to configure. It was old and well known in the art to use a mouse to click on an image to make the selection. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Bieganski and Weaver the use of a mouse to click on an image to make a selection, because this is a notoriously well know method of selecting merchandise and would produce an efficient means for selecting the garment to be worn by the mannequin taught in Weaver.

In regards to claim 12, Bieganski teaches wherein the

the interactive wizard guide includes: means for selecting a model from a model database and morphing the model using specifications provided by the user (Weaver, FIG 7).

In regards to claim 13, Bieganski/Weaver teaches wherein the interactive wizard guide uses an animation graphics composition morphing program to cause the model to be animated and to engage in a full range of movement displayed on the display device (Weaver, FIG 7).

In regards to claim 14, Bieganski/Weaver wherein the interactive wizard guide includes both inclusion and exclusion mechanisms to assist the user in making preference selections (Weaver, FIG 7).

In regards to claim 15, Bieganski teaches wherein the interactive wizard guide includes an automated select all feature wherein all possible preferences are automatically included unless excluded by the user (col 7; lines 33-43).

In regards to claim 17, Bieganski/Weaver wherein if the merchandize is clothing, the displaying means of the interactive wizard guide can display a plurality of ensembles of clothing for viewing by the user,

each ensemble able to be altered with ensemble items moved from one ensemble to another, colors and patterns changed, and reassembled interactively,

the ensembles able to be displayed using models and animation specified by the user (Weaver, FIG 9B).

In regards to claim 18, the combination of Bieganski/Weaver does not specifically teach wherein a user can purchase an entire ensemble, or any part of the ensemble. Selecting all or some of the presented products such as is found in a catalog is old and well known in the art. It would be obvious to a person of ordinary skill in the art to include in Bieganski and Weaver selecting only a portion of what is presented, because if the user was forced to purchase something that was unwanted the user would probably leave the site and try to purchase the product they wanted elsewhere.

In regards to claim 19, the combination of Bieganski and Weaver teach a list of items that can be selected for display on an avatar, but does not specifically mention that an additional desired matching items can be retrieved and displayed for viewing that may not be included in the list. It was old and well known in the art at the time of the invention to be able to retrieve additional items that may not be on a provided list (i.e. adding to a shopping cart). It would have been obvious to a person of ordinary skill in the art to include in Bieganski and Weaver the capability to get additional items, because the user may not be satisfied with the current selections and might want to try on something they had seen earlier thus increasing the likelihood of a sale through the system.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bieganski et al (6,412,012) in view of Official Notice in view of Weaver and further in view of Hashimoto (5,729,699).

In regards to claim 21, the combination of Bieganski and Weaver does not specifically teach wherein the predetermined intelligence rules pertain to determining whether two colors match. Hashimoto teaches a display system, which evaluates and coordinates accessories and colors (see at least abstract). It would be obvious to a person of ordinary skill in the art to include in Bieganski and Weaver the coordinating suggestion as taught by Hashimoto, because this would provide an additional feature that users, perhaps color blind or lacking in taste, could use to assure that the clothing being bought matches.

Response to Arguments

Applicant's arguments are moot in view of the new grounds of rejection provided above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(703) 605-4252**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vincent Millin** can be reached on **(703) 308-1065**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(703) 872-9306 [Official communications; including
After Final communications labeled
"Box AF"]

(703) 746-7206 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.



Mark Fadok

Patent Examiner